

provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

[42 FR 14334, Mar. 15, 1977, as amended at 42 FR 15673, Mar. 22, 1977; 54 FR 24891, June 12, 1989; 61 FR 14480, Apr. 2, 1996; 66 FR 56035, Nov. 6, 2001]

## PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

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AUTHORITY: 21 U.S.C. 321, 336, 342, 346, 346a, 348, 371.

SOURCE: 42 FR 52819, Sept. 30, 1977, unless otherwise noted.

### Subpart A—General Provisions

#### § 109.3 Definitions and interpretations.

(a) *Act* means the Federal Food, Drug, and Cosmetic Act.

(b) The definitions of terms contained in section 201 of the act are applicable to such terms when used in this part unless modified in this section.

(c) A *naturally occurring poisonous or deleterious substance* is a poisonous or deleterious substance that is an inherent natural constituent of a food and is

not the result of environmental, agricultural, industrial, or other contamination.

(d) An *added poisonous or deleterious substance* is a poisonous or deleterious substance that is not a naturally occurring poisonous or deleterious substance. When a naturally occurring poisonous or deleterious substance is increased to abnormal levels through mishandling or other intervening acts, it is an added poisonous or deleterious substance to the extent of such increase.

(e) *Food* includes human food and substances migrating to food from food-contact articles.

#### § 109.4 Establishment of tolerances, regulatory limits, and action levels.

(a) When appropriate under the criteria of § 109.6, a tolerance for an added poisonous or deleterious substance, which may be a food additive, may be established by regulation in subpart B of this part under the provisions of section 406 of the act. A tolerance may prohibit any detectable amount of the substance in food.

(b) When appropriate under the criteria of § 109.6, and under section 402(a)(1) of the act, a regulatory limit for an added poisonous or deleterious substance, which may be a food additive, may be established by regulation in subpart C of this part under the provisions of sections 402(a)(1) and 701(a) of the act. A regulatory limit may prohibit any detectable amount of the substance in food. The regulatory limit established represents the level at which food is adulterated within the meaning of section 402(a)(1) of the act.

(c)(1) When appropriate under the criteria of § 109.6, an action level for an added poisonous or deleterious substance, which may be a food additive, may be established to define a level of contamination at which a food may be regarded as adulterated.

(2) Whenever an action level is established or changed, a notice shall be published in the FEDERAL REGISTER as soon as practicable thereafter. The notice shall call attention to the material supporting the action level which shall be on file with the Dockets Management Branch before the notice is